

YADKIN COUNTY STATE OF EMERGENCY ORDINANCE

AN ORDINANCE AUTHORIZING THE PROCLAMATION OF A STATE OF EMERGENCY AND THE IMPOSITION OF PROHIBITIONS AND RESTRICTIONS DURING A STATE OF EMERGENCY

PREFACE

During an emergency threatening public safety, or when such an emergency is imminent, it may become necessary in order to protect lives and property to restrict public access to particular areas, restrict the movement of certain items or materials, or to impose certain other emergency measures. These measures may be necessary for a variety of reasons, including allowing emergency vehicles and personnel into a stricken area, riot prevention or control, the prevention of looting, or limiting the dangerous effects of hazardous materials. In such emergencies, the government has the responsibility to act within its capabilities to protect its citizens from danger, and this Ordinance is intended to give the County all of the tools provided by North Carolina law to protect people and property during an emergency.

Section I. Purpose

The purpose of the Ordinance is to authorize the Chairman of the Board of County Commissioners of Yadkin County, during an actual or imminent emergency, to exercise all emergency powers provided by North Carolina law in order to minimize injury to citizens and damage to property.

Section II. Authority

This Ordinance is adopted pursuant to the authority granted to the Yadkin County Board of Commissioners by Chapter 153A, Chapter 166A, and Article 36A of Chapter 14 of the North Carolina General Statutes.

Section III. State of Emergency: Restrictions Authorized

- a) A state of emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.
- b) In the event of an existing or threatened state of emergency, the Chairman of the Board of Commissioners of Yadkin County is hereby authorized and empowered under Section 14-288.13 of the General Statutes to issue a public proclamation declaring to all persons the existence of such a state of emergency, and in order

to more effectively protect the lives and property of the people within the County, to place in effect any or all of the restrictions authorized by Section 14-288.13 of the General Statutes.

- c) The Chairman is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the County and to specific hours of the day or night; and to exempt from all or part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities, on-duty military personnel whether state or federal, on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit, and such other classes of persons as may be essential or helpful to the preservation of public order and immediately necessary or helpful to serve the safety, health and welfare needs of the people within the County.

Section IV. Proclamation Imposing Prohibitions and Restrictions

- a) The Chairman of the Board of Commissioners of Yadkin County by one or more proclamations may impose the prohibitions and restrictions specified in Section V through IX in this Ordinance in the manner described in those sections. The Chairman may impose as many of those specified prohibitions and restrictions as he finds are necessary or appropriate to maintain an acceptable level of public order and services and to protect lives, safety, and property. The Chairman shall recite his findings in the proclamation.
- b) The proclamation shall be in writing. The Chairman shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the County Courthouse if possible. The Chairman shall retain a copy of the proclamation and furnish upon request certified copies of it for use as evidence.

Section V. Curfew

- a) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of any exempted classes. The proclamation shall specify the geographical area or areas and the periods during each 24 hour day to which the curfew applies. The Chairman may exempt from some or all of the curfew restrictions classes of people whose exemptions the Chairman finds necessary or appropriate for the preservation of the public health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.
- b) Unless otherwise specified in the proclamation, the curfew shall apply during the specified periods each day until the Chairman by proclamation removes the curfew.

Section VI. Restriction on Possession, Consumption, or Transfer of Alcoholic Beverages.

The proclamation may prohibit the possession or consumption of any intoxicating liquor, including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any intoxicating liquor within the area of the County described in the proclamation. The prohibition, if imposed, may apply to transfers of intoxicating liquor by employees of Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

Section VII. Restrictions on Possession, Transportation, and Transfer of Dangerous Weapons and Substances

- a) The proclamation may prohibit the transportation of, possession other than on one's own premises of, or the sale or purchase of any dangerous weapon or substance. The Chairman may exempt from some or all of these restrictions classes of people for whom the possession, transfer, or transportation of certain dangerous weapons or substances is necessary or appropriate for the preservation of the public health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.
- b) "Dangerous weapon or substance" shall have the meaning provided by North Carolina General Statute Section 14-288.1(2).
- c) If imposed, these restrictions shall apply throughout the jurisdiction of the County or such part thereof as designated in the proclamation.

Section VIII. Restrictions on Access to Areas

- a) The proclamation may prohibit accessing or attempting to obtain access to any area designated by an order, clearly posted notice, or barricade indicating that access is denied or restricted.
- b) Areas to which access is denied or restricted shall be designated by the Sheriff and his subordinates when directed in the proclamation to do so by the Chairman. When acting under this authority, the Sheriff and his subordinates may restrict or deny access to any area, street, highway or location within the County if that restriction or denial of access or use is reasonably necessary to promote the efforts being made to address the emergency or to prevent further aggravation of the emergency.

Section IX. The Proclamation May Prohibit or Restrict:

- a) Movements of people in public places;
- b) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and

- c) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency within the area designated in the proclamation.
- d) The proclamation may impose any other restriction or prohibition authorized by Section 14-288.12 of the North Carolina General Statutes.

Section X. Amendments of the Proclamation

The Chairman may amend or extend a proclamation from time to time, making such modifications as he would have been authorized to include in the original proclamation.

Section XI. Removal of Prohibitions and Restrictions

The Chairman shall by proclamation remove the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the Board of Commissioners. Any prohibition or restriction also shall automatically expire five days after its last imposition unless sooner terminated by the Chairman or the Board of Commissioners.

Section XII. Separate and Superseding Proclamations.

The Chairman in his discretion may invoke the restrictions authorized by this Ordinance in separate proclamations, and may amend any proclamation by means of a superseding proclamation.

Section XIII. In Case of Absence or Disability of Chairman

In case of the absence or disability of the Chairman, the Vice-Chairman of the Board of Commissioners, or such other person as may be designated by the Board of Commissioners, shall have and exercise all of the powers herein given the Chairman.

Section XIV. Penalty for Violation

Any person violating any prohibition or restriction imposed by a proclamation authorized by this Ordinance shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50.00 or imprisonment not exceeding thirty (30) days, as provided by G.S. 14-4.

Section XV. Repeal of Conflicting Ordinances

All ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section XVI. Territorial Applicability.


This Ordinance shall not apply within the corporate limits of any municipality, or within any area of the County over which a municipality has jurisdiction to enact general police-power ordinances, unless the municipality by resolution consents to this Ordinance's application, in which event this Ordinance shall apply to such areas as fully and to the same extent as elsewhere in the County.

Section XVII. Validity


If any provision of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, that provision shall be enforced to the fullest extent possible, and the validity of the remaining provisions of this Ordinance shall be unaffected. The Board of Commissioners hereby declares that it would have passed this Ordinance and each provision thereof irrespective of the fact that any one or more provisions might be declared invalid.

Section XVIII. Effective Date of Ordinance

This Ordinance shall take effect the 21st day of May, 2012



Kevin Austin, Chairman
Yadkin County Board of Commissioners

ATTEST:  6-5-12

Aaron Church, Clerk to the Board